

ESWATINI 2018 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Eswatini is an executive monarchy. King Mswati III and Queen Mother Ntombi, the king's mother, rule as comonarchs and exercise varying levels of authority over the three branches of government. There is a bicameral parliament consisting of the Senate and House of Assembly, each composed of appointed and elected members. The king appoints the prime minister. Political power remained largely vested with the king and his traditional advisors. International observers concluded the 2018 parliamentary elections were procedurally credible, peaceful, and well managed.

Civilian authorities generally maintained effective control over the security forces.

Human rights issues included restrictions on political participation, corruption, rape and violence against women linked in part to government inaction, criminalization of same-sex sexual conduct, although rarely enforced, and child labor.

The government often did not investigate, prosecute, or administratively punish officials who committed human rights abuses. With very few exceptions, the government did not identify officials who committed abuses. Impunity was widespread.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

In contrast with 2017, there were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices, and there were few credible reports that government officials employed them. During the year the government enacted the Police Service Act, which prohibits police from inflicting, instigating, or tolerating torture and other cruel, inhuman, or degrading treatment or punishment. The new law also establishes a new disciplinary offense for officers who use violence or unnecessary force, or who intimidate prisoners or others with whom they have contact in the execution of their duties.

There were scattered reports throughout the country of cruel, inhuman, and degrading treatment by “community police”—untrained, volunteer security personnel who exist outside the country’s formal legal structures and are empowered by rural communities to act as vigilantes, patrolling against rural crimes such as cattle rustling. In March three community police members in Manzini confronted and assaulted a young couple who had been walking together in a rural area. The assailants then raped the young woman, who was 17-years-old on the date of the incident. Each of the three community police members received sentences of 13 years’ imprisonment with no option of paying a fine to effect an earlier release. Two of the assailants received an additional year of imprisonment for the assault that preceded the rape.

In May the newspaper *Times of Swaziland* reported that a group of police arrested and abused a 35-year-old man whom they suspected of having committed a handful of home burglaries. When the accused reached the police station and denied responsibility for the break-ins, police allegedly tied him to a bench, where one officer sat on his chest while another wrapped plastic bags around his face. The accused told reporters that he confessed to the crimes to avoid further abuse. He led the officers to his sister’s home, where he had told them he hid the stolen items. Upon showing the officers an assortment of old furniture and other items, the accused reported that the police seemed to realize that they might have the wrong person. Police released him and reportedly told him not to tell anyone what had happened. The accused reported he sought medical treatment but lied to the nurses about how he had been injured, saying that he had fallen from a tree, because he did not want to be asked to file a police report. X-rays ultimately revealed the accused had suffered a broken rib and a dislocated shoulder. When reached for comment, a police spokesperson encouraged the accused to file a formal complaint with the station commander. There were no further media reports relating to the accused’s allegations, and it was unclear whether a police investigation ensued or resulted in disciplinary measures.

Prison and Detention Center Conditions

Prison conditions varied and did not always meet international standards due to overcrowding and, in certain locations, facilities that require repair or modernization.

Physical Conditions: His Majesty's Correctional Services (HMCS) stated in September that the total prison population was 3,453, exceeding the prison system's designed capacity by 615 inmates. Facilities were of mixed quality; some were old and dilapidated; others such as the women's prison were newer and well maintained. HMCS officials reported a growing incidence of prisoner-on-prisoner violence due to increased gang activity among inmates as prison populations have expanded and diversified in recent years. During larger incidents of prisoner-on-prisoner violence that involved multiple individuals, prison officials faced growing challenges in maintaining control.

In July and August 2017, media outlets reported that during a search for contraband, prison guards wearing surgical gloves ordered a dormitory of inmates to strip naked and face the wall. Wearing surgical gloves, they hit inmates on their buttocks with fists and, according to one inmate, "squeezed their (genitals) like one does when milking a cow."

Administration: Authorities reportedly conducted investigations of credible allegations of mistreatment and held prison officials accountable through appropriate disciplinary measures--primarily suspensions without pay.

Independent Monitoring: The government permitted monitoring of prison conditions by independent nongovernmental observers such as the International Committee of the Red Cross, African Union, local nongovernmental organizations, and diplomatic missions. Independent monitoring groups generally received broad access to prison facilities and were able to conduct unchaperoned interviews of inmates and prison guards.

Improvements: During the year the government enacted the Correctional Services Act, which repealed the Prisons Act of 1964 and expanded opportunities for sentences to be served through community service. HMCS officers reported the new law already had begun easing congestion in the prisons.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

Role of the Police and Security Apparatus

The king is the commander in chief of the Umbutfo Eswatini Defense Force (UEDF), holds the position of minister of defense, and is the commander of the Royal Eswatini Police Service (REPS) and HMCS. He presides over a civilian principal secretary of defense and a commanding general. Approximately 35 percent of the government workforce was assigned to security-related functions.

Civilian authorities failed at times to maintain effective control over security forces. The REPS is responsible for maintaining internal security as well as migration and border crossing enforcement. The UEDF is responsible for external security but also has domestic security responsibilities, including protecting members of the royal family. The prime minister oversees the REPS, and the principal secretary of defense and the army commander are responsible for day-to-day UEDF oversight. The HMCS is responsible for the protection, incarceration, and rehabilitation of convicted persons and keeping order within HMCS institutions. HMCS personnel, however, sometimes worked alongside police during demonstrations and other large events, such as national elections, that call for a larger complement of personnel. While the conduct of the REPS, UEDF, and HMCS was generally professional, members of these forces were susceptible to political pressure and corruption.

Traditional chiefs supervised volunteer rural “community police,” who have the authority to arrest suspects concerning minor offenses for trial by an inner council within the chiefdom. For serious offenses suspects were handed over to the REPS for further investigations.

Impunity was a problem. Although there were mechanisms to investigate and punish abuse and corruption, there were few prosecutions or disciplinary actions taken against security officers accused of abuses. The internal REPS Complaints and Discipline Unit investigated reports of police abuse and corruption but did not release its findings to the public. In most cases the REPS transferred police officers found responsible for violations to other offices or departments within the police system. Police academy training for recruits included human rights components in line with regional standards. Some officers also attended additional training programs that included a human rights component.

Arrest Procedures and Treatment of Detainees

The law requires warrants for arrests, except when police observe a crime being committed, believe a person is about to commit a crime, or conclude evidence would be lost if arrest is delayed. The law requires authorities to charge detainees with the violation of a statute within a reasonable time, usually within 48 hours of arrest or, in remote areas, as soon as a judicial officer is present to assume responsibility. Authorities sometimes failed to charge detainees within this time period, sometimes taking up to a week. There is a bail system, and suspects may request bail at their first appearance in court, except in serious cases such as those involving murder or rape. In general detainees could consult with lawyers of their choice, to whom they were generally allowed prompt access. Lawyers may be provided to indigent defendants at public expense in capital cases or if conviction of a crime is punishable by life imprisonment.

Most citizens who encountered the legal system did so through the 13 traditional courts. Each court has a presiding judicial officer appointed by the king. These courts adjudicate minor offenses and violations of traditional law and custom. Authorities generally respected traditional court rulings.

The director of public prosecutions has the legal authority to determine which court should hear a case. The director delegated this responsibility to public prosecutors. Rather than refer a case to the director, police often referred cases not properly investigated to one of the traditional courts because the standard of evidence required for conviction was not as high as in the civil judicial system. Persons convicted in the traditional courts may appeal to the High Court. Prolonged delays during trials in the magistrate courts and High Court were common.

Military courts are not allowed to try civilians. They do not provide the same rights as civil criminal courts. For example, military courts may use confessions obtained under duress as evidence and may convict defendants based on hearsay.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence and impartiality in nonpolitical criminal and civil cases not involving the royal family or government officials.

Judicial powers are based on two systems: Roman-Dutch law and a system of traditional courts that follows traditional law and custom. Neither the Supreme Court nor the High Court, which interprets the constitution, has jurisdiction in matters concerning the Offices of the King or Queen Mother, the regency, chieftaincies, the Swati National Council (the king's advisory body), or the traditional regiments system. Unwritten traditional law and custom govern all of these institutions. Courts were unwilling to recognize many of the fundamental rights provided for in the constitution and instead relied on antiquated civil laws, which often reduce or disregard these rights. The king appoints Supreme Court justices on the advice of the Judicial Service Commission, which is chaired by the chief justice. Supreme Court justices must be Swati citizens and are subject to mandatory retirement at age 75. The Supreme Court hears cases throughout the year.

Trial Procedures

The constitution and law generally provide for the right to a fair and public trial, and the judiciary generally enforced this right.

Defendants enjoy a presumption of innocence and the right to be informed of charges promptly, in detail, and with free interpretation if necessary. The constitution provides for the right to a fair public trial without undue delay, except when exclusion of the public is deemed necessary in the "interests of defense, public safety, public order, justice, public morality, the welfare of persons under 18, or the protection of the private lives of the persons concerned in the proceedings." The judiciary enforced this right. Court-appointed counsel is provided to indigent defendants at government expense with free assistance of an interpreter for any defendant who cannot understand or speak English or SiSwati if the crime is punishable by death or life imprisonment. Defendants and their attorneys have access to relevant government-held evidence, generally obtained from the Public Prosecutor's Office during pretrial consultations. Defendants have the right to adequate time and facilities to prepare a defense. Defendants may question witnesses against them and present witnesses and evidence on their own behalf. Defendants may not be compelled to testify or confess guilt. Defendants and prosecutors have the right of appeal up to the Supreme Court. The law extends the foregoing rights to all persons.

The traditional courts operate under traditional authorities, including local chiefs. In general, chiefs preside over traditional courts as court presidents. Traditional courts hear both civil and minor criminal matters. By law traditional courts may

not impose fines above 240 emalangeneni (\$17) or prison sentences longer than 12 months.

Traditional courts are empowered to administer customary law only “insofar as it is not repugnant to natural justice or morality” or inconsistent with the provisions of any civil law in force, but some traditional laws and practices violate civil laws, particularly those involving women’s and children’s rights. Defendants in traditional courts are not permitted formal legal counsel but may speak on their own behalf, call witnesses, and be assisted by informal advisors. Traditional law and custom provide for an appeals process, but the process is long and cumbersome. Under the constitution, the High Court has review and appellate jurisdiction over matters decided in traditional courts. Judicial commissioners within the traditional legal system may adjudicate appeals themselves or refer appeals to a court within the civil judicial system on their own volition. Appellants and appellees also have the right to seek High Court review of traditional court decisions.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals and organizations may seek civil remedies for human rights violations, including appeal to international courts or bodies. Administrative remedies are also available under civil service rules and regulations.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions except “in the interest of defense, public safety, public order, public morality, public health, town and country planning, use of mineral resources, and development of land in the public benefit.” The government did not always respect these prohibitions and broadly construed exceptions to the law. The law requires police to obtain a warrant from a magistrate before searching homes or other premises, but officers with the rank of subinspector or higher have authority to conduct a search without a warrant if they believe delay might cause evidence to be lost.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution and law provide for freedom of expression, including for the press, but the government restricted this right, particularly with respect to press freedom and matters concerning the monarchy. Although no law bans criticism of the monarchy, the prime minister used threats and intimidation to restrict such criticism.

Press and Media Freedom: The law empowers the government to ban publications if it deems them “prejudicial or potentially prejudicial to the interests of defense, public safety, public order, public morality, or public health.” Many journalists practiced self-censorship. Journalists expressed fear of reporting on matters involving the monarchy.

Daily newspapers criticized government corruption and inefficiency but generally avoided criticizing the royal family.

Broadcast media remained firmly under state control. Most persons obtained their news from radio broadcasts. Access to speak on national radio is generally restricted to government officials, although a leader of the Trade Union Congress of Swaziland received an opportunity in September to share trade union frustrations and demands. Despite invitations issued by the media regulatory authority for parties to apply for licenses, no licenses were awarded. Stations practiced self-censorship and hesitated to broadcast anything perceived as critical of the government or the monarchy.

Censorship or Content Restrictions: Some journalists practiced self-censorship due to fear of reprisals, such as losing paid government advertising, if their reporting was perceived as critical of the monarchy.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. According to the International Telecommunication Union, 30 percent of the population used the internet in 2017.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The constitution and law provide for the freedoms of peaceful assembly and association, and the government generally respected these rights.

In June, August, and September, REPS officials used nonlethal measures to control and disperse crowds when protesters deviated from agreed routes or provoked the police by throwing stones or trying to enter government facilities without authorization. Some protesters experienced non-life-threatening injuries during these incidents.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. During the year the government enacted the Refugees Act, which improved recognition of and protection for refugees in the country while domesticating the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern. By traditional law and custom, chiefs have the power to decide who may reside in their chiefdoms; evictions occurred due to internal conflicts, alleged criminal activity, or opposition to the chief.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Durable Solutions: The government permanently resettled refugees in the country. It allowed some refugees to compete for jobs and granted them work permits and temporary residence permits. The government also provided refugees with free transportation twice a week to buy and sell food in local markets. Refugees who live in the country more than five years are eligible for citizenship. The government continued to implement a psychological support program that provided counseling to refugees. Refugees could visit the neighboring countries of Mozambique and South Africa with ease.

Section 3. Freedom to Participate in the Political Process

Political rights were severely restricted, although citizens have the ability to choose 59 of the 69 members of the House of Assembly in procedurally credible, periodic elections held by secret ballot.

Legislation passed by parliament requires the king's consent to become law. Under the constitution the king selects the prime minister, the cabinet, two-thirds of the Senate, 10 of 65 members of the House of Assembly, many senior civil servants, the chief justice and other justices of the superior courts, members of commissions established by the constitution, and the heads of government offices. On the advice of the prime minister, the king appoints the cabinet from among members of parliament.

Elections and Political Participation

Recent Elections: During the year peaceful and generally well managed parliamentary elections took place. International observers concluded the elections were credible, peaceful, and well managed.

Political Parties and Political Participation: The government stated it was not yet ready to allow political parties to register and contest political power. The constitution provides for freedom of association but does not address how political parties may operate and contest elections. While political parties existed, there was no legal mechanism for them to register or contest elections. The constitution also states candidates for public office must compete on their individual merit, which courts have interpreted as blocking competition based on political party affiliation.

Participation in the traditional sphere of governance and politics takes place predominantly through chiefdoms. Chiefs are custodians of traditional law and custom, report directly to the king, and are responsible for the day-to-day running of their chiefdoms and maintenance of law and order. Although local custom mandates that chieftaincy is hereditary, the constitution, while recognizing that chieftaincy is “usually hereditary and is regulated by Swati law and custom,” also states the king “may appoint any person to be chief over any area.” As a result many chieftaincies were nonhereditary appointments, a fact that provoked land disputes, especially at the time of the death and burial of chiefs.

Participation of Women and Minorities: The constitution provides for 59 of the 69 seats in the House of Assembly to be popularly contested and for the king to appoint the remaining 10 members. The constitution provides for five of the 10 appointed members to be women and for the appointed members to represent “interests, including marginalized groups not already adequately represented in the House.” The king appointed only three women to the House of Assembly following the elections, in which only two women were elected. If, after an election, women constitute less than 30 percent of the total membership of parliament, the constitution and law require the House to elect four additional women--one from each region. The House complied with this requirement.

The king appoints 20 members of the 30-seat Senate, and the House of Assembly elects the other 10. The constitution requires that eight of the 20 members appointed by the king be women and that five of the 10 members elected by the House be women. Following the elections the king filled seven of the eight designated seats with women, while the House of Assembly elected five women to the Senate.

Widows in mourning (for periods that may extend up to two years) were prevented from appearing in certain public places or being in proximity to the king or a chief’s official residence. As a result widows were excluded from running for office or taking active public roles in their communities during those periods.

There were very few ethnic minority members in the government. Several appointed officials were members of the royal family.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively. Officials sometimes engaged in corrupt practices with impunity. There were isolated reports of government corruption during the year, although there was a widespread public perception of corruption in the executive and legislative branches of government and a consensus that the government did little to combat it.

Corruption: There were widespread reports of immigration and customs officials seeking bribes to issue government documents such as visas and resident permits. In March police raided the Department of Immigration, where they confiscated files and arrested and charged two senior immigration officers. The government filed charges against one of the senior officers based on allegations she had processed applications for travel documents for foreign nationals who were not present in, and had never visited, the country. The prosecution of this case was ongoing.

Credible reports continued that a person's relationship with government officials influenced the awarding of government contracts; the appointment, employment, and promotion of officials; recruitment into the security services; and school admissions. Authorities rarely took action on reported incidents of nepotism.

Financial Disclosure: The constitution prohibits government officials from assuming positions in which their personal interests are likely to conflict with their official duties. The constitution requires appointed and elected officials to declare their assets and liabilities to the Commission on Public Administration and Human Rights. The commission is mandated to monitor and verify disclosures. There are criminal and administrative sanctions for noncompliance. Sanctions for failure to disclose assets and conflicts of interest include removal from office, disqualification from holding a public office for a period determined by a court, and confiscation of any property illegitimately acquired during tenure in office. According to the commission, the majority of those required to declare assets and liabilities did so, but the commission suspected underreporting in some cases. The commission did not make this information public.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials were generally cooperative but rarely responsive to their views.

Government Human Rights Bodies: The Commission on Human Rights and Public Administration Integrity (CHRP AI) has evolved into a more independent institution that effectively exercises many of the powers afforded to it under the constitution. The CHRP AI is empowered by the constitution to investigate complaints of corruption, abuse of power, violations of human rights, and mismanagement of public administration. The CHRP AI consists of a commissioner and three deputy commissioners, and its secretariat employs capable professionals who preside over its management and administration. During the year the CHRP AI investigated dozens of complaints, made findings of fact, appeared in court on behalf of aggrieved parties, issued recommendations to judicial and governmental bodies, and provided human rights training to law enforcement officials. It also sent an independent observation team into the field to observe and report on the integrity of the 2018 elections (including the nomination process, primary, and general election).

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: During the year the government enacted the Sexual Offenses and Domestic Violence (SODV) Act, establishing a broad new framework to curb sexual offenses and domestic violence. The law criminalizes domestic violence and rape, including spousal rape. The penalties for rape are up to 30 years' imprisonment for first offenders and up to 40 years' imprisonment for subsequent offenders. The penalties for domestic violence are a fine of up to 75,000 emalangeni (\$5,400), 15 years' imprisonment, or both. The SODV Act has seen rapid implementation since becoming effective on August 1, with harsh sentences imposed for crimes that likely would have gone unpunished in prior years. For example, in November a husband received a 10-year prison sentence for beating his wife with the blunt edge of a bush knife after she had come home late.

Rape remained common, and domestic violence against women sometimes resulted in death. According to UNICEF, one in three Swati women experienced sexual abuse by age 18, while 48 percent reported having experienced some form of sexual violence in their lifetime. There were few social workers or other intermediaries to work with victims and witnesses to obtain evidence of rape and domestic violence.

Rural women who sought relief in traditional courts often had no relief if family intervention did not succeed, because traditional courts were unsympathetic to “unruly” or “disobedient” women and were less likely than courts using Roman-Dutch-based law to convict men of spousal abuse.

Other Harmful Traditional Practices: Accusations of witchcraft were employed against women in family or community disputes that could lead to their being physically attacked, driven from their homes, or both.

Sexual Harassment: The new SODV Act, which became effective on August 1, establishes broad protections against sexual harassment, with penalties of a fine up to 25,000 emalangenzi (\$1,800), 10 years’ imprisonment, or both.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: Women occupied a subordinate role in society. The dualistic nature of the legal system complicated the protection of women’s rights. Since unwritten customary law and custom govern traditional marriage and matters of inheritance and family law, women’s rights often were unclear and changed according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody, property, and inheritance in the event of divorce or death.

Civil law is inconsistent with the constitutional stipulation that “women have the right to equal treatment with men and that right shall include equal opportunities in political, economic, and social activities.” Civil law defines married women as subordinate to their husbands.

Girls and women faced discrimination in rural areas by community elders and authority figures, who gave preference to boys in education. Women faced employment discrimination (see section 7.d.). While the constitution provides that women may open bank accounts, obtain passports, and take jobs without the permission of a male relative, these constitutional rights often conflicted with traditional law, which classifies women as minors. Both traditional and Roman-Dutch civil law recognize women as dependents of their husbands or fathers. Although women routinely executed contracts and entered into a variety of transactions in their own names, banks sometimes refused personal loans to

married women without a male guarantor. The constitution provides for equal access to land and civil law provides for women to register and administer property. Most persons were unaware of this right, however, and customary law forbids women from registering property in their own names.

Although customary law considers children to belong to the father and his family if the couple divorce, custody of the children of unmarried parents typically remains with the mother, unless the father claims paternity. Inheritances pass to and through male children only. When the husband dies, tradition dictates the widow must stay at the residence of her husband's family in observance of a strict mourning period for one month. Media reported that widows heading households sometimes became homeless and were forced to seek public assistance when the husband's family took control of the homestead. Women in mourning attire were generally not allowed to participate in public events and were barred from interacting with royalty or entering royal premises. In some cases the mourning period lasted up to two years. No similar mourning period is expected of men.

Children

The law sets the age of majority at 18. It defines child abuse and imposes penalties for abuse; details children's legal rights and the responsibility of the state, in particular with respect to orphans and other vulnerable children; establishes structures and guidelines for restorative justice; defines child labor and exploitative child labor; and sets minimum wages for various types of child labor. At year's end the government had not implemented most of the law's provisions.

Birth Registration: Under the constitution, children derive citizenship from the father, unless the birth occurs outside marriage and the father does not claim paternity, in which case the child acquires the mother's citizenship. If a Swati woman marries a foreign man, however, even if he is a naturalized Swati citizen, their children carry the father's birth citizenship.

The law mandates compulsory registration of births. According to the Multiple Indicator Cluster Survey, 50 percent of children younger than five were registered and 30 percent had birth certificates. Lack of birth registration may result in denial of public services, including access to education.

Education: The law requires that parents send their children to school through the date that they complete primary school. Parents who do not send their children to school were required to pay fines for noncompliance. Primary education was

tuition-free through grade seven. The Office of the Deputy Prime Minister received an annual budget allocation to pay school fees for orphans and other vulnerable children (OVC) in both primary and secondary school. Approximately 70 percent of Swati children were classified as OVC so had access to tuition-free education through the secondary level.

Child Abuse: The new SODV Act established broad new protections for children against abduction, sexual contact, and several other forms of abuse. The penalty for indecent treatment of children is up to 20 or 25 years' imprisonment, depending upon the age of the victim. Child abuse remained a serious problem, especially in poor and rural households.

Corporal punishment in schools still occurred, despite a 2015 announcement by the Ministry of Education and Training that teachers who hit pupils should be reported to the ministry for disciplinary action. Education regulations that permit corporal punishment remained in effect, and some teachers continued such practices with impunity.

Early and Forced Marriage: The legal age of marriage is 18 for both boys and girls, but with parental consent and approval from the minister of justice, girls may marry at 16. The government recognizes two types of marriage, civil marriage and marriage under traditional law. Under traditional law marriages are permitted for girls as young as 13. Although government officials have criticized this practice, civil law has not yet provided an effective deterrent. For additional information see Appendix C.

Sexual Exploitation of Children: The new SODV Act prohibits and provides strong penalties for commercial sexual exploitation, sale, offering, and procuring of children for prostitution, and practices related to child pornography. Children were occasional victims of sex trafficking and commercial sexual exploitation. The law criminalizes "mistreatment, neglect, abandonment, or exposure of children to abuse" and imposes a statutory minimum imprisonment of five years. Although the law sets the age of sexual consent at 16, the new SODV Act provides for a penalty of up to 20 years' imprisonment for "maintaining a sexual relationship with a child," defined as a relationship that involves more than one sexual act with a person younger than 18.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's Annual Report on International Parental Child Abduction at

<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

Anti-Semitism

The Jewish community is very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law protects the rights of persons with disabilities (i.e., physical, sensory, intellectual, and mental disabilities), including their access to education, employment, health services, information, communications, buildings, transportation, the judicial system, and other state services. During the year the government enacted the Persons with Disabilities Act, which domesticates the Convention on the Rights of Persons with Disabilities and enhances the socioeconomic and cultural rights of such persons. The new law mandates access to health care for persons with disabilities and accessibility to buildings, transportation, information, communications, and public services. Because the new law became effective on August 1, it was unclear how effectively the government would enforce its provisions.

The Office of the Deputy Prime Minister is responsible for upholding the law and for protecting the rights of persons with disabilities. Persons with disabilities complained of government neglect and a significantly lower rate of school attendance for children with disabilities. Newer government buildings, and those under construction, included various improvements for persons with disabilities, including access ramps. Public transportation was not easily accessible for persons with disabilities, and the government did not provide any alternative means of transport.

There were only minimal services provided for persons with disabilities, and there were no programs in place to promote the rights of persons with disabilities. There was one private school for students with hearing disabilities and one private special-education school for children with physical or mental disabilities. The

hospital for persons with mental disabilities, located in Manzini, was overcrowded and understaffed.

By custom persons with disabilities may not be in the presence of the king, as they are believed to bring “bad spirits.”

National/Racial/Ethnic Minorities

Governmental and societal discrimination was practiced against nonethnic Swatis, primarily persons of Asian descent and those of mixed race. Nonethnic Swatis sometimes experienced difficulty in obtaining official documents, including passports, and suffered from other forms of governmental and societal discrimination, such as delays in receiving building permits for houses, difficulties in applying for bank loans, and needing special permits or stamps to buy a car or house.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

While colonial-era legislation against sodomy remains on the books, no penalties are specified, and there were no arrests. The law does not prohibit discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons in housing, employment, nationality laws, and access to government services such as health care. The government asserted that same-sex relationships and acts were illegal but did not prosecute any cases during the year, and apparently there has never been a prosecution of consensual same-sex sexual conduct. Societal discrimination against LGBTI persons remained widespread, and LGBTI persons generally concealed their sexual orientation and gender identity. LGBTI persons who were open regarding their sexual orientation and relationships faced censure and exclusion from the chieftom-based patronage system. Chiefs, pastors, and government officials criticized same-sex sexual conduct as neither morally Swati nor Christian. Despite these barriers LGBTI persons organized the country’s first-ever Pride Parade, which occurred in June without incident. LGBTI groups have held spirited public discussions with religious leaders in a mutual effort to build improved understanding and lines of communication.

HIV and AIDS Social Stigma

Social stigma associated with being HIV-positive discouraged persons from being tested. Nevertheless, there were often long lines, especially of young persons,

waiting to be tested during prevention campaigns. The armed forces encouraged testing and did not discriminate against active military members testing positive. Persons who test HIV-positive, however, were not recruited by the armed forces because military authorities claimed they would not be able to withstand strenuous training.

Other Societal Violence or Discrimination

There was social stigma attached to albinism, and persons with albinism were subject to discrimination, called names, and at risk of being killed for ritual purposes.

Belief in witchcraft was common, and those accused of witchcraft were at risk of being assaulted or killed. Notwithstanding the continuing stigma and discrimination, unlike last year there were no reports of assaults or deaths linked to albinism or witchcraft.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that workers, except for those in essential services, have the right to form and join independent unions, conduct legal strikes, and bargain collectively. The law provides for the registration of unions and federations but grants far-reaching powers to the labor commissioner with respect to determining eligibility for registration. Unions must represent at least 50 percent of employees in a workplace and submit their constitutions to be automatically recognized.

The constitution and law provide for the right to organize and bargain collectively, subject to various legal restrictions. The law gives employers discretion as to whether to recognize a labor organization as a collective employee representative if less than 50 percent of the employees are members of the organization. If an employer agrees to recognize the organization as the workers' representative, the law grants the employer the ability to set conditions for such recognition. The law provides for the registration of collective agreements by the Industrial Court. The court is empowered to refuse registration if an agreement conflicts with the law, provides terms and conditions of employment less favorable to employees than those provided by any law, discriminates against any person, or requires membership or nonmembership in an organization as a condition for employment. The Conciliation, Mediation, and Arbitration Commission presides over dispute

resolution. The commissioner of labor has the power to “intervene” in labor disputes before they are reported to the commission if there is reason to believe a dispute could have serious consequences for the employers, workers, or the economy if not resolved promptly.

Employees not engaged in “essential services” have the right to undertake peaceful protest actions to “promote or defend socioeconomic interests” of workers. The law, however, defines “socioeconomic interest” as including “solutions to economic and social policy questions and problems that are of direct concern to the workers but shall not include matters of a purely political nature.” The law prohibits antiunion discrimination. Extensive provisions allow workers to seek redress for alleged wrongful dismissal, but the law does not require reinstatement of workers fired for union activity.

Although the law permits strikes, the right to strike is strictly regulated, and the administrative requirements to register a legal strike made striking difficult. Strikes and lockouts are prohibited in essential services, and the minister’s power to modify the list of these essential services provides for broad prohibition of strikes in nonessential sectors, including postal services, telephone, telegraph, radio, and teaching. The procedure for announcing a protest action requires advance notice of at least seven days. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts. When disputes arose with civil servant unions, the government often intervened to reduce the chances of a protest action, which may not be called legally until all avenues of negotiation are exhausted and a secret ballot of union members conducted.

Employers allegedly used labor brokers to hire individuals on contracts, to avoid hiring those who would normally be entitled to collective bargaining rights. No laws govern the operation of labor brokers.

b. Prohibition of Forced or Compulsory Labor

The law prohibits most forms of forced or compulsory labor, but it also exempts “communal services” from the definition of forced labor, referencing services that benefit the community and are uncompensated. Although the High Court declared null and void the law exempting “communal services” from the definition of forced labor, no actions were taken to repeal it. Local chiefs continued to require community members to work as a form of property tax. Types of work primarily included agricultural labor such as weeding fields, including the chief’s.

Community members were, however, able to make a small financial contribution to the chiefdom rather than performing physical labor.

The labor code punishes those convicted of imposing forced labor with a maximum of one year's imprisonment, a fine of 3,000 emalangeni (\$217), or both. These penalties were considered sufficient to deter violations in cases when the law was enforced. Customary law has no stipulated sentences but provides for fines that range from a few hundred to several thousand emalangeni.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits child labor. The minimum age for employment is 15, for night work 16, and for hazardous employment 18. The Employment Act, however, does not extend minimum age protections to children working in domestic or agricultural work. The law also prohibits children younger than 18 from engaging in hazardous work in industrial undertakings, including mining, manufacturing, and electrical work, but these prohibitions do not address hazardous work in the agriculture sector. The law limits the number of night hours children may work on school days to six and the overall hours per week to 33.

The Ministry of Labor, the Office of the Deputy Prime Minister through the Department of Social Welfare, and the REPS are responsible for enforcement of laws relating to child labor. The government did not effectively enforce laws combating child labor due to a lack of baseline information regarding the scope of the problem and a lack of dedicated resources for identifying and punishing violators.

Penalties for conviction of child labor violations include a minimum fine of 100,000 emalangeni (\$7,246), five years' imprisonment, or both for a first offense, and a minimum of 10 years' imprisonment with no option for a fine for subsequent offenses.

Children continued to be employed in the informal sector, particularly in domestic services and agricultural work such as livestock herding. This work might involve activities that put at risk their health and safety, such as using dangerous machinery and tools, carrying heavy loads, being exposed to pesticides, and working alone in remote areas. Children also worked as porters, bus attendants, taxi conductors, and

street vendors. Children working on the streets risked a variety of dangers, such as severe weather and automobile accidents. They also were vulnerable to exploitation by criminals.

Child domestic servitude was also prevalent, disproportionately affecting girls. Such work could involve long hours of work and could expose children to physical and sexual exploitation by their employer. Children's exploitation in illicit activities was a problem. Children, particularly in rural areas, served alcohol in liquor outlets and grew, manufactured, and sold illegal drugs.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings.

d. Discrimination with Respect to Employment and Occupation

The labor law prohibits discrimination in employment and occupation based on race, gender, language, HIV/AIDS or other communicable disease status, religion, political views, or social status. The law does not prohibit discrimination based on age, sexual orientation, and gender identity.

Gender-based discrimination in employment and occupation occurred (see section 6). While women have constitutional rights to equal pay and treatment and may take jobs without the permission of a male relative, there were few effective measures protecting women from discrimination in hiring, particularly in the private sector. The average wage rates for men by skill category usually exceeded those of women.

Persons with disabilities faced discrimination in hiring and access to work areas. Openly LGBTI persons were subject to discrimination in employment and social censure.

Migrant workers enjoy the same legal protections, wages, and working conditions as citizens but sometimes faced discrimination in employment due to societal prejudice against foreigners.

e. Acceptable Conditions of Work

There is no national minimum wage. The Ministry of Labor and Social Security sets wage scales for each industry. There was a legally mandated sliding scale of minimum wages depending on the type of work performed. Wages ranged from

828 emalangen (60) per month for domestic workers to 1,242 emalangen (90) per month for skilled forestry workers, above the World Bank's poverty line of 27 emalangen (1.96) per day. All workers in the formal sector, including migrant workers, are covered by the wage laws. According to the most recent World Bank data (2016), 38 percent of the population lived below the international poverty line of 27 emalangen (1.96) per day.

There was a standard 48-hour workweek for most workers and a 72-hour workweek for security guards spread over a period of six days. The law requires all workers to have at least one day of rest per week and provides for premium pay for overtime. Most workers received a minimum of 12 days of annual leave with full pay. Workers receive 14 days of sick leave with full pay and 14 days with half pay after three months of continuous service; these provisions apply only once per calendar year. No sick leave is granted if an injury results from an employee's own negligence or misconduct.

The law provides for some protection of workers' health and safety. The government set safety standards for industrial operations and encouraged private companies to develop accident prevention programs. By law workers may remove themselves from situations that endanger their health or safety without jeopardy to their employment. Authorities did not effectively protect employees in this situation.

The government inconsistently enforced the Occupational Safety and Health Act, which lays out the rights and responsibilities of employers, employees, and the government with respect to occupational health and safety.

The Ministry of Labor and Social Security is responsible for enforcement of labor laws but faced significant resource challenges, including a lack of motor vehicles and inability to hire additional staff. The 15 labor inspectors serving the entire country were insufficient, and while the labor commissioner's office conducted inspections in the formal sector, it did not have the resources to conduct inspections in the informal sector.

Labor laws are applicable to the informal sector but were seldom enforced. Most workers were in the informal sector, but credible data were not available. Workers in the informal sector, particularly foreign migrant workers, children, and women, risked facing hazardous and exploitative conditions. Minimum wage guidelines did not apply to the informal sector.

Public transportation workers complained they were required to work 12 hours a day or more without overtime compensation and they were not entitled to pensions and other benefits. Civil servants held several demonstrations during the year to demand a salary increase that the government has refused, citing the ongoing fiscal crisis. The country's nurses engaged in strikes and work slowdowns during the year to advocate for higher wages and to protest understaffing and shortages of medicines and other medical supplies.

Credible data on workplace fatalities and accidents was not available.